REPORT IN THE MATTER OF LEGALIZING STREETS
WITHIN SOMMERS ADDITION TO ELGIN OREGON

The plat map for Sommers Addition to Elgin Oregon, recorded May 1, 1897, does not represent an accurate survey of the 1/4 1/4 section that makes up the subdivision. The actual dimensions of the 1/4 1/4 parcel are greater than the mathematical dimensions as represented on the recorded plat map. As a result of this defect, the developed location of the streets and blocks within the subdivision do not follow a proper aliquot parceling of the lots. The existing and long standing development of Sommers Addition does, however, conform to dimensions that are mostly consistent with the streets and blocks dimensioned in the recorded plat map. This is evidenced by overlaying a scaled map of the subdivision with an aerial photo and by measurements on the ground.

A survey and executed partition plat performed by Rick Robinson of Bagett, Griffith and Blackman filed with the Union County Clerk under partition plat No. 1999-27 does not conform to the long established pre-existing use boundaries throughout the subdivision nor does it conform to the unrecorded survey by Boise Cascade Corporation in made in the 1960's.

The City of Elgin has caused a resurvey of the subject subdivision to establish the boundaries of streets and blocks within the subdivision. This survey was performed by Tomkins Land Surveying, Inc of Walla Walla Washington dated October, 2000 and filed with the Union County Surveyor under survey No. 2000-33. The Tomkins survey was able to located unrecorded monuments, fences lines and other evidence of established lot lines that indicate the long standing use boundaries within the subdivision. These indicators of lot and block boundaries were found to be sufficient to determine the original intent of the subdivider's.

It was found that the location of the developed streets within Sommers Addition are mostly consistent with the boundaries found by the Tomkins survey. To maintain the peace and welfare of the people of the community, the City of Elgin has caused the center lines of the streets within the Sommers Addition to be monumented by Tomkins Land Surveying, consistent with the fore mentioned Tomkins Survey. The streets located by these new monuments are mostly coincident with the existing developed streets and conform in most respects to the development of the blocks and lots of the subdivision.

Based on the forgoing, it is the recommendation of the City Administrator that the streets defined by the monuments placed by Tomkins Land Surveying be "legalized" per the provisions of ORS 223.935 to 223.950, and the Rick Robinson survey (partition plat No. 1999-27) be voided.

Attached hereto is a copy of the Tomkins survey of October, 2000

Joe Garlitz, Recorder/Administrator

UNION COUNTY SURVEYOR

GREGORY T. BLACKMAN
2006 Adams Avenue
LaGrande, OR 97850
(541) 963-6092

Joe Garlitz
Recorder/Administrator
City of Elgin
P.O. Box 128
Elgin, Oregon 97827

December 27, 2000

RE: SOMMERS ADDITION

Joe;

I have read your "Report" to the Council regarding the legalizing of the streets within the Sommers Addition in Elgin. Basically I think the document is accurate and will do the job, with the exception of Section 5 declaring the Partition Plat No. 1999-27 Void. This requires a vacation proceeding that will vacate the plat. I requested Nellie Hibbert, Union County Clerk to research and tell me how she wants the vacation to proceed. I requested this in October, to date I have had no correspondence with Nellie. I talked with her on one occasion just before the election, and she needed more time because of the election process. I will take care of the vacation of the plat, as once it was filed then we must follow proper procedures to have the vacation take place. Also Joe, I have researched some other things involving the vacations of the existing roads when a legalization occurs. I am sending along a document for your information. It appears to me that on a County Road, at least, vacation occurs on the old roads automatically when a legalizing of a road occurs. The question follows, does a city street legalization also automatically vacate the old locations. Perhaps Ray Baum can answer that question. Thanks for sending along the findings. I hope my comments are helpful.

Sincerely;

Greg Blackman, PLS
Union County Surveyor

NARRATIVE

THIS SURVEY WAS PERFORMED AT THE REQUEST OF THE CITY OF ELGIN TO ANALYZE DECISIONS MADE IN THE SURVEY AND EXECUTION OF A PARTITION PLAT PERFORMED BY RICK ROBINSON OF BAGETT, GRIFFITH AND BLACKMAN FOR CROSS AND WILES, FILED IN THE OFFICE OF THE UNION COUNTY CLERK UNDER PARTITION PLAT NO. 1999-27. IN MR. ROBINSON'S ANALYSIS OF THE BOUNDARIES OF SOMMERS' ADDITION, AND THE SUBSEQUENTLY PROTRACTED BLOCK LINES AND LOT LINES WITHIN SOMMERS' ADDITION, IT WAS DECIDED THAT SINCE THE ORIGINAL LEGAL DESCRIPTION FOR SOMMERS' ADDITION CALLED THE ADDITION BOUNDARIES AS AN ALIQUOT PART OF SECTION 15, AND SINCE THE PLAT OF THE ADDITION SHOWED THE BLOCKS AND LOTS WITHIN THE ADDITION AS REGULAR AND EQUALLY DIMENSIONED, THE BOUNDRIES OF THE ADDITION WOULD NECESSARILY FALL ALONG THE ALIQUOT PARTS LINES, AND THE RESULTING EXCESSES AND DEFICIENCIES WITHIN THE ADDITION WOULD BE EQUALLY DISTRIBUTED THROUGHOUT THE ADDITION.

UNFORTUNATELY, MR. ROBINSON'S STRICT ADHERANCE TO THE MATHEMATICAL SUBDIVISION OF THE ALIQUOT PART THAT COMPRISES THE LAND DESCRIBED IN THE PLAT OF SOMMERS' ADDITION RESULTED IN THE CREATION OF CONFLICTS BETWEEN THE CALCULATED LOT AND BLOCK CORNERS AND THE LOT AND BLOCK CORNERS WITHIN SOMMERS' ADDITION AS IMPROVEMENTS HAVE OCCURRED, AND AS MONUMENTED BY AN UNRECORDED SURVEY, REPORTEDLY PERFORMED BY THE BOISE CASCADE CORPORATION IN THE 1960'S, OUR RE-SURVEY OF SOMMERS' ADDITION FOUND THAT THE UNRECORDED MONUMENTS IN SOMMERS' ADDITION, WITH THE EXCEPTION OF TWO MONUMENTS THAT WERE REPORTEDLY DISLACED DURING SNOW REMOVAL, AND THE LONG STANDING FENCE LINES AND BUILDINGS WITHIN THE ADDITION, ATTESTED TO BY RESIDENTS, WERE IN GOOD AGREEMENT WITH EACH OTHER. IT WAS MY CONCLUSION THAT THE UNRECORDED MONUMENTS, FENCES, AND BUILDINGS WITHIN SOMMERS' ADDITION, AS SHOWN IN THIS SURVEY, PROVIDED THE BEST EVIDENCE OF THE ORIGINAL INTENT OF THE SUBDIVIDERS, AND HAVE THUS RECONSTRUCTED THE BLOCK AND LOT LINES WITHIN SOMMERS' ADDITION ACCORDINGLY.

CLEARLY, THE INTERPRETATION DISCUSSED HEREIN THAT LOCATES THE BOUNDARIES OF SOMMERS' ADDITION AS THEY WERE APPARENTLY ORIGINALLY INTENDED TO EXIST RESULTS IN THE CREATION OF TITLE DIFFICULTIES ALONG THE PERIMITER OF THE ADDITION. THOUGH THE LAND OWNERS ALONG THE PERIMITER OF THE ADDITION CLEARLY HAVE A CLAIM TO THE LAND WITHIN THE FENCES THAT HAVE HISTORICALLY BEEN THE DEFINITION OF THE BOUNDARY OF THE ADDITION, A SERIES OF GAPS AND OVERLAPS BETWEEN SAID OCCUPATION LINE AND THE ALIQUOT SECTION SUBDIVISION LINES OCCUR. THE ALIQUOT SECTION SUBDIVISION LINES REPRESENT THE DEDICATED BOUNDARY OF SOMMERS' ADDITION. THE LINE SHOWN ON THIS SURVEY AS "APPARENT SUBDIVISION BOUNDARY" REPRESENT MY ANALYSIS OF THE SUBDIVISION BOUNDARY BASED ON THE UNRECORDED MONUMENTS AND IMPROVEMENTS. IT IS MY RECOMMENDATION THAT THE LAND OWNERS ALONG THE ADDITION PERIMITER PURSUE QUIT CLAIMING TO EACH OTHER ANY LANDS WITHIN OR WITHOUT THE "APPARENT SUBDIVISION BOUNDARY" SHOWN HEREIN, IN ORDER TO MAINTAIN ORDER AND GOOD NEIGHBOR RELATIONS WITHIN THIS PART OF THE TOWN OF ELGIN.

THIS SURVEY WAS PERFORMED AS A COMBINATION OF REAL TIME KINEMATIC SURVEY USING ASHTECH G+G G.P.S. RECEIVERS, AND TRADITIONAL TERRESTIAL FIELD TRAVERSE, USING A SOKKIA AUTOMATIC TOTAL STATION. THE SURVEY WAS INITIATED FROM RAILROAD SPIKE CONTROL POINTS PREVIOUSLY SET BY BAGETT GRIFFITH AND BLACKMAN, AND WAS CLOSED INTO CADASTRAL MONUMENTS ALSO SET BY BAGETT, GRIFFITH, AND BLACKMAN. A WORD OF SPECIAL THANKS TO AND APPRECIATION OF THE FIRM OF BAGETT, GRIFFITH, AND BLACKMAN IS DUE, FOR THEIR COOPERATION AND ASSISTANCE IN THE EXECUTION OF OUR SURVEYS.

N.E. 1/4, S.W. 1/4

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